

ESTTA Tracking number: **ESTTA665517**

Filing date: **04/08/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Riverstone Ventures LLC
Granted to Date of previous extension	04/08/2015
Address	17501 W. 98th Street Pillar 18-55 Lenexa, KS 66219 UNITED STATES
Attorney information	Joan Optican Herman/Cheryl L. Burbach Hovey Williams LLP 10801 Mastin Blvd., Suite 1000 Overland Park, KS 66210 UNITED STATES jherman@hoveywilliams.com, cburbach@hoveywilliams.com, litigation@hoveywilliams.com Phone:913-647-9050

Applicant Information

Application No	86344607	Publication date	12/09/2014
Opposition Filing Date	04/08/2015	Opposition Period Ends	04/08/2015
Applicant	NEAT PRINT INC Unit 188 Sarasota, FL 34232 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Clothing, namely shirts, t-shirts, tanktops, tops, sweat shirts, hoodies, jerseys, pullovers, jackets and headwear

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	SOON TO BE A MOMMY		
Goods/Services	T-shirts and other apparel items		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	SOON TO BE A DADDY		
Goods/Services	T-shirts and other apparel items		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	SOON TO BE A BIG SISTER		
Goods/Services	T-shirts and other apparel items		

Attachments	Notice of Opposition_SN 86344607 (SOON TO BE).pdf(97509 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Cheryl L. Burbach/
Name	Cheryl L. Burbach
Date	04/08/2015

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

RIVERSTONE VENTURES LLC,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	Serial No. 86/344,607
NEAT PRINT INC.,)	Mark: SOON TO BE
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Riverstone Ventures LLC (“Riverstone”), a Kansas limited liability company, with an address of 17501 W. 98th Street, Pillar 18-55, Lenexa, Kansas 66219, believes that it will be damaged by the registration of U.S. Serial No. 86/344,607 for the mark SOON TO BE and hereby opposes registration of the same under § 13 of the Trademark Act of 1946, 15 U.S.C. § 1063.

The grounds for the opposition are as follows:

1. Applicant Neat Print Inc. (“Neat Print”), a Florida corporation, with an address of Unit 188, 5317 Fruitville Rd., Sarasota, Florida 34232, filed intent-to-use application on July 22, 2014, U.S. Serial No. 86/344,607 (“Application”), for the trademark SOON TO BE (“the Opposed Mark”) for “[c]lothing, namely, shirts, t-shirts, tank tops, tops, sweat shirts, hoodies, jerseys, pullovers, jackets and hats” in International Class 025 (“Neat Print’s Goods”). The United States Patent & Trademark Office (“USPTO”) published the Application for opposition in the *Official Gazette* on December 9, 2014, allowing time to oppose the Application up to and including January 8, 2015. On December 9, 2014, Riverstone filed a 90-Day Request for Extension of Time to Oppose the Application until April 8, 2015. The Trademark Trial and Appeal Board (“TTAB”)

granted Riverstone's First Request. Accordingly, Riverstone has timely filed this Notice of Opposition.

2. The opposed Application was filed on July 22, 2014, on the basis of Section 1(b) of the Trademark Act. Neat Print has not entered into the application a date of first use of the mark.

COUNT I:
LIKELIHOOD OF CONFUSION

3. Riverstone asserts this claim in accordance with Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), 37 C.F.R. § 2.101(b), and Section 18 of the Trademark Act.

4. Riverstone has been continuously using the "SOON TO BE A MOMMY", "SOON TO BE A DADDY" and/or "SOON TO BE A BIG SISTER" trademarks ("Riverstone's SOON TO BE Marks"), among other variations, on t-shirts and other apparel items in commerce since at least as early as 2007. The date of first use of Riverstone's SOON TO BE Marks predate the filing date of the subject application for Neat Print's SOON TO BE mark.

5. By virtue of Riverstone's continuous use in commerce of its products bearing Riverstone's SOON TO BE Marks and of its extensive sales, advertising and promotion, Riverstone's SOON TO BE Marks have become well and favorably known to the relevant trade and public in connection with such goods.

6. Neat Print's use of the SOON TO BE trademark for Neat Print's Goods so resembles Riverstone's SOON TO BE Marks as to be likely to create confusion, mistake or deception under § 2(d) of the Trademark Act, 15 U.S. C. § 1052(d).

7. Further, the Opposed Mark is identical and/or nearly-identical to, and/or wholly incorporated within, both visually and aurally, Riverstone's well-known SOON TO BE Marks. As a result, these two SOON TO BE marks have the same commercial connotations to consumers.

8. Consumers who encounter the phrase “SOON TO BE” in connection with Neat Print’s Goods, reasonably will believe that such products are affiliated with, sponsored endorsed or otherwise offered by Riverstone.

9. Neat Print’s Goods are closely related to, if not identical, and directly competitive with Riverstone’s Goods.

10. Neat Print’s Goods can or could be purchased by the very same class of purchasers and may be sold in the same trade channels as Riverstone’s Goods advertised and sold under Riverstone’s SOON TO BE Marks.

11. As the Application has no limitation on trade channels, Neat Print’s Goods are presumed to move through all of the ordinary and usual channels of trade for such goods, further exacerbating the likelihood of confusion between Neat Print’s SOON TO BE mark and Riverstone’s SOON TO BE Marks.

12. Riverstone has established substantial goodwill in connection with its SOON TO BE Marks. Having established such goodwill, Riverstone is entitled to protection against use of confusingly similar marks such as the Opposed Mark.

13. If the Opposed Mark is allowed to register, purchasers are likely to believe that the Opposed Mark and the goods offered in connection therewith originated with or are connected or associated with, or sponsored, licensed, endorsed or approved by Riverstone, all to Riverstone’s detriment. Undoubtedly, registration of the Opposed Mark will allow Neat Print to wrongfully appropriate Riverstone’s valuable goodwill and reputation associated with Riverstone’s SOON TO BE Marks.

14. By reason of the foregoing, Riverstone is likely to be harmed by registration of the Opposed Mark.

WHEREFORE, Riverstone believes that as a result of the likelihood of confusion and priority on Neat Print's SOON TO BE mark, Riverstone will be damaged by the registration of Neat Print's SOON TO BE mark and prays that the Board sustain this Notice of Opposition and refuse to register Serial No. 86/344,607.

Riverstone Ventures, LLC hereby appoints Joan Optican Herman and Cheryl L. Burbach and Hovey Williams LLP, 10801 Mastin Boulevard, Suite 1000, Corporate Woods, Building 84, Overland Park, KS 66210, as its representative upon whom notices and process in proceedings affecting this proceeding may be served.

Respectfully Submitted,

Dated: April 8, 2015

/s/Cheryl L. Burbach
Joan Optican Herman
Cheryl L. Burbach
HOVEY WILLIAMS LLP
10801 Mastin Blvd., Suite 1000
Overland Park, Kansas 66210
(913) 647-9050 - Phone
(913) 647-9057 - Fax

ATTORNEYS FOR RIVERSTONE
RIVERSTONE VENTURES, LLC

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF OPPOSITION to be served upon counsel for Applicant via e-mail and U.S. Mail this 8th day of April 2015:

Daniel R. Frijouf, Esq.
Frijouf, Rust & Pyle P.A.
201 East Davis Blvd.
Tampa, FL 33606
Tel. (813) 254-5100

/s/Cheryl L. Burbach
Cheryl L. Burbach